IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 15666 of 2005

Between:

1 Neerukonda Suri Babu, S/o.Late Rangaiah,
R/o.Dommeru, Kovvur (M), W.G.District.
2 Neerukonda Lakshmi, W/o.Late Rangaiah,
R/o.Dommeru, Kovvur (M), W.G.District.

..... PETITIONERS

AND

1 The Assistant Commissioner of Endowments, Eluru, W.G.District.
2 Sri Ramalingeswara Swamy Temple, Nandigampadu Chagallu

Mandal,W.G.District. Rep by its Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the action of the 2nd respondent in conducting auction on 21-7-2005 for leasing out the land to an extent of Ac.6.90 cents of Nandigampadu Village, Chagallu Mandal, West Godavari district which is under the possession and enjoyment of the petitioners as tenants and when their claim to declare them as landless poor person is pending before the 1st respondent, as illegal, arbitrary Violative of Principles of

Natural Justice and contrary to Law and pass such other order or orders.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondent No. 1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: M/s. N. INDRANI

The Court, at the stage of admission, made the following:

Oral order:-

The petitioners are admittedly cultivating tenants of the lands belonging to Sri Ramalingeshwara Swamy Temple, Nandigampadu village, Chagallu Mandal, West Godavri district. Their tenancy stood determined by operation of law i.e., Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). Form-I notice as required under Rule 5 (1) of the Andhra Pradesh Charitable and Hindu Religious Instituions and Endowments Lease on Agricultural Lands Rules, 2003 (for short 'the Rules'), was earlier issued to the petitioners calling upon them to handover possession of the lands, failing which they would be evicted invoking the provisions of Section 84 (3) of the Act. In response thereto, the petitioners sent up a lawyer's notice on 24-05-2005 denying the assertions in the Form No.1 Notice and claiming that the petitioners are cultivating tenants of small extents of land and are, therefore, small farmers. No application for determination of their status as landless poor persons as required under Rule 3 of the Rules has admittedly been made. The writ petition is filed apprehending dispossession without determining their status as landless poor persons.

This writ petition is misconceived. The petitioners are required to make an application for determination of their status as landless poor persons under Rule 3 of the Rules. Such an application has not been made. In the circumstances, there is a presumption that the petitioners do not contest the *prima facie* assertion in the earlier issued form No. I notice dated 30-04-2005 that they are liable to be evicted on termination of the tenancy, under the provisions of Section 82 of the Act. They can resist such eviction only if they establish that they are landless poor persons and are entitled to the benefits under Section 82 (2) of the Act. For this determination, an application is required to be made under Rule 3 of the Rules.

On the aforesaid analysis, the writ petition is dismissed. The petitioners are at liberty to submit the applications under Rule-3 of the Rules seeking determination of their status as landless poor persons. No costs.

GODA RAGHURAM, J

Dt. 22-07-2005

Pvks/*

Nb:- Furnish c.c. in three days.

B/o pvks/*

To

1 The Assistant Commissioner of Endowments, Eluru, W.G.District.
2 The Manager, Sri Ramalingeswara Swamy Temple, Nandigampadu Chagallu Mandal,W.G.District.

3. 2 CCs., to the learned Government Pleader for Endowments, A.P. High Court Buildings, Hyderabad (OUT).

4 2 CD copies

*Form-NIC-OGS/WP{**TRR**}*